

Q1
cont 5
16. The flavored gelatin capsule of claim 15 wherein the concentration of water-soluble flavoring present in said gelatin capsule is in the range between about 0.5% and about 1.5%.

Please amend claim 7 as follows:

- Q2
7. (Amended) A fish oil capsule for palatable presentation of fish oil comprising:
- a gelatin capsule, said gelatin capsule comprising gelatin, a gelatin softener, water and a water-soluble flavoring, wherein said water is present in said gelatin capsule in a concentration between about 6% and about 10%; and
 - a dose, said gelatin capsule encapsulating said dose, wherein said dose consists essentially of fish oil, whereby said fish oil capsule is a palatable fish oil presentation which promotes ingestion of the fish oil.

REMARKS/ARGUMENTS

Claims 7 through 16 will remain pending after the above amendment to the claims, with claims 11 through 16 corresponding as a group to claims 1 through 6 in the original application.

Rejections under the judicially created doctrine of obviousness-type double patenting

A terminal disclaimer and fee are submitted with this paper for any patent deriving out of this application with respect to Patent 6,346,231 in accordance with 37 CFR 1.321(c), without admission that the requirement is proper with respect to any particular claim.

Rejections under 35 USC 103

The claims have been amended to emphasize the patentability of the invention and to arrange the claims to present two distinct issues as follows:

- Claims 11-16 present the issue of whether a flavored gelatin capsule is obvious over U.S. 5,141,961 ('961), when the flavoring is present in a limited range taught in the application, where evidence of unexpected results is demonstrated for the limited range. Note that claims 11-16 are broader than the corresponding claims in the parent case (now Applicant's patent U.S. 6,346,231), in that the gelatin capsules themselves are claimed (claim 11) as are doses other than fish oil. The broader claims are justified by unexpected results that were previously presented in Declarations in the parent case and are submitted again with this response.
- Claims 7 - 10 present the issue of whether the prior art reference is sufficiently enabled to make it obvious to add flavoring to a fish oil capsule comprising a dose consisting essentially of fish oil, at *any* concentration of flavoring or within a broader range of concentrations than those proven to provide unexpected results in claims 11-16.

Evidence of Unexpected Results was presented in two Declarations by the inventor under 32 CFR 1.132 that were submitted in the parent case, one dated October 8, 2000 (labeled Exhibit 1) and the second dated March 28, 2001 (labeled Exhibit 2). Exhibit 1 and Exhibit 2 are included herewith and are true copies of the original declarations.